

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q85026
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/518,403	Filed December 17, 2004
	First Named Inventor Frédéric MILLIOT	
	Art Unit 2617	Examiner Michael T. VU
	WASHINGTON OFFICE 23373 CUSTOMER NUMBER	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.		
This request is being filed with a notice of appeal		
The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.		
<input checked="" type="checkbox"/> I am an attorney or agent of record. Registration number <u>62,499</u> <u>/Ebenesar D. Thomas/</u> Signature		
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<u>April 7, 2009</u> Date		

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q85026

Fréderic MILLIOT, et al.

Appln. No.: 10/518,403

Group Art Unit: 2617

Confirmation No.: 9974

Examiner: Michael T. VU

Filed: December 17, 2004

For: METHOD OF SUPPLYING SERVICE CONFIGURATION DATA TO A MOBILE TELEPHONY DEVICE BY MEANS OF A DATA PROCESSING TERMINAL

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 7, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claim rejections

Claims 1-3, 5-10, 12-19 and 22-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrett (U.S. Patent No. 6,167,280; hereinafter "Barrett") in view of Byrnes (U.S. publication No. 2002/0002705).

Claims 4 and 11 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Barrett in view of Byrnes and Chandra (U.S. Publication No. 2002/0138582).

Claims 20-21 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Barrett in view of Byrnes and Rouse (U.S. Publication No. 2005/0159136).

Applicants respectfully traverse the rejection for at least the following reasons.

Claim 1

Claim 1 recites, *inter alia*, “after the setting up the connection, exchanging service configuration data between the terminal and the device by means of selected AT commands that the AT command management means of said device are able to interpret.”

In the Final Office Action dated November 7, 2008, the Examiner acknowledges that Barrett fails to teach or suggest the features of claim 1 recited above. However, the Examiner asserts Byrnes allegedly discloses these features of claim 1 which are missing in Barrett. *See* page 3, lines 4-16 of the Final Office Action.

In response, Applicants respectfully submitted in the Amendment filed February 6, 2009 that, Byrnes discloses a schematic diagram of a mobile communication system incorporating the profile updating system (FIG. 2). This mobile communication system includes a user computer in the form a mobile device 100 in communication with a wireless network 120, such as a digital cellular network. Further, the system includes a WAP (*Wireless Application Protocol*) gateway 130 acting as an update control computer in communication with network 120 and a memory in the form of profile database 140. The WAP gateway 130 generates a profile update message that includes the changes suggested to be made to the user's profile. This message is transmitted across the wireless network 120 to the mobile device 100 and the suggested changes are displayed to the user (paragraph [0012] - [0016]). Therefore, according to Byrnes, a profile update message is transmitted through the wireless network, and does not teach or suggest exchanging service configuration data between the terminal and the device by means of selected AT commands that the AT command management means of said device are able to interpret.

However, the Examiner now states in the Advisory Action dated March 2, 2009 that Barrett allegedly discloses the claimed features of claim 1 recited above in column 1, lines 51-63, column 4, lines 14-31 and the Abstract . Applicants disagree with the Examiner for at least the following reasons.

In the cited portions of the reference Barrett discloses using AT commands to configure and set up data connection between the subscriber unit and the modem (FIG. 1; column 1, lines 51-57 and column 2, lines 7-9), and thereafter data transfer 30 between subscriber unit and modem may proceed (column 2, lines 9-10). However, Barrett fails to disclose exchanging service configuration data between the terminal and the device by means of selected AT commands after the setting up of the connection.

Moreover, in column 4, lines 14-47, Barrett discloses a method in which configurations parameters are prestored in base station controller, computer, or any other location within cellular infrastructure (column 4, lines 31-39). Therefore, when a subscriber unit initiates a data call, the process determines whether or not prestored data connection configuration parameters or modem configurations are available in the cellular infrastructure. Such data connection configuration parameters may include AT commands (column 4, lines 15-47). However, here again, Barrett merely discloses AT commands to set up data connection and does not teach or suggest using AT commands means after the setting up of the connection as recited in the claimed invention.

That is, even if, *assuming arguendo*, Barrett discloses setting up data connection using AT commands, Barrett does not teach or suggest anything about the usage of AT commands for exchanging service configuration data, after the setting up of the connection. Byrnes also fails to disclose this feature of the claimed invention. Therefore, Applicants respectfully submit that

both Barrett and Byrnes, alone or in combination, do not teach or suggest after the setting up of the connection, exchanging service configuration data between the terminal and the device by means of selected AT commands.

In view of the above, Applicants respectfully submit that claim 1 is allowable over the combined teachings of Barrett and Byrnes at least because the combined references fail to teach or suggest all of the features of the claimed invention.

Claim 9

Applicants submit that claim 9 recites subject matter analogous to claim 1, and therefore is allowable for at least the reasons discussed above with regard to claim 1.

Claims 2-3, 5-8, 10, 12-19 and 22-26

Applicants submit that claims 2-3, 5-8, 10, 12-19 and 22-26 depend from either claim 1 or 9, and therefore are allowable at least by virtue of their dependency.

With regard to claim 25, Applicants submit that Barrett and Byrnes do not teach or suggest “wherein the exchanging service configuration data between the terminal and the device by means of selected AT commands comprises the terminal sending the device AT commands for at least one of reading, modifying, deleting and adding to a profile stored in a memory in the device.”

Specifically, as described above, Byrnes merely discloses WAP gateway 130 acting as an update control computer and communicating to the mobile device 100 through wireless network (paragraph [0013]). However, this does not teach or suggest “the terminal sending the device AT commands for at least one of reading, modifying, deleting and adding to a profile stored in a memory in the device.”

Claims 4 and 11

Applicants respectfully submit that since claims 4 and 11 depend from one of the independent claims that is allowable, and since Chandra does not cure the deficiencies noted above with regard to claim 1, claims 4 and 11 are allowable at least by virtue their dependency.

Claims 20-21

Applicants respectfully submit that since claims 20-21 depend from claim 1 and since Rouse does not cure the deficiencies noted above with regard to claim 1, claims 20-21 are allowable at least by virtue of their dependency and the additional limitations therein.

In view of the above, reversal of the outstanding rejections is respectfully requested.

Respectfully submitted,

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